

STATE OF SOUTH CAROLINA

(Caption of Case)

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2007 - 400 - C

(Please type or print)

Submitted by: William K. Coulter

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: Comments

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input checked="" type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
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SC PUBLIC SERVICE
COMMISSION

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VIA FEDERAL EXPRESS

March 31, 2008

Public Service Commission
Docketing Department
101 Executive Center Drive
Columbia, S.C. 29210

Re: Comments of OnStar Corporation in Dkt. No. 2007-400-C

Dear Sir or Madam:

OnStar Corporation ("OnStar"), by its undersigned counsel, hereby files an original plus ten (10) copies of its Comments in the above-referenced matter.

Please file stamp and return the extra copy of this filing in the pre-addressed, stamped envelope provided for this purpose. Kindly direct any questions regarding this filing to the undersigned.

Regards,

William K. Coulter
Elizabeth Holowinski
Counsel for OnStar Corporation

Cc: Office of Regulatory Staff

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SC PUBLIC SERVICE
COMMISSION

Docket No. 2007-400-C

OnStar Corporation (“OnStar”) respectfully submits these comments regarding the South Carolina Public Service Commission’s (“Commission’s”) proposed regulations to “provide for bonding or other security to protect consumers of prepaid local exchange telephone service.”¹ As further described below, OnStar urges the Commission to clarify that the proposed regulations do not apply to providers of Commercial Mobile Radio Services (“CMRS”).²

OnStar, a subsidiary of General Motors (“GM”), is a telematics service provider offering services throughout the United States. Recently, OnStar began offering “Hands-Free Calling Service”, which is a resold CMRS service whereby customers purchase prepaid wireless mobile minutes to use over the OnStar telematics equipment embedded into the GM vehicle.³

As a reseller of CMRS, OnStar urges the Commission to specifically exempt CMRS from the requirements of Section 103-607. Draft Section 103-607 states that it applies to

¹ See Notice of Proposed Regulation, Regulation Number 103-607, Docket Number 2007-400-C (Feb. 8, 2008).

² “Any mobile service that is provided for profit and makes interconnected service available to the public....” 47 U.S.C. § 332(d).

³ As a reseller of CMRS, OnStar does not operate any telecommunications facilities. It does not hold any FCC licenses to provide wireless radio services.

“telecommunications carriers who provide prepaid local exchange services....”⁴ Although draft Section 103-607 does not define the term “prepaid local exchange services,” it is clear under S.C. law that this term should not include providers of CMRS. The term CMRS is not defined under S.C. law. However, providers of CMRS services are included in the S.C. code definition of “radio common carriers,” which specifically excludes “telephone utilities.”⁵ Under S.C. law, the term “telephone utilities” includes both providers of local exchange or toll services.⁶ Thus, providers of CMRS or radio common carriers are not telephone utilities or providers of local exchange services. Even so, in order to avoid any confusion in this matter, OnStar urges the Commission to specifically exclude CMRS providers from the requirements of proposed Section 103-607.

Further, application of the requirements of Section 103-607 to providers of CMRS would be unlawful. As the Commission is aware, federal law preempts virtually all state “entry” regulation of CMRS providers.⁷ This is specifically recognized under South Carolina law.⁸

⁴ See Draft 26 S.C. Code Ann. Regs. 103-607. Only providers requiring advance payment from customers prior to providing telecommunications service and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina are subject to Section 103-607 requirements. *Id.*

⁵ “Radio common carrier” is defined as “persons and corporations...owning or operating in this State equipment or facilities for the transmission of intelligence by a modulated radio frequency signal, for compensation to the public, including all things incident thereto and related to the operation of radio transmission, but shall not include telephone utilities or services regulated by Articles 1 through 13 of Chapter 9 of Title 58 of the 1976 Code.” S.C. Code § 58-11-10(f).

⁶ “Telephone utilities” are entities “owning or operating in this State equipment or facilities for the transmission of intelligence by telephone for hire, including all things incident thereto and related to the operation of telephones.” S.C. Code § 58-9-10(6). Such entities include providers of local exchange services.

⁷ 47 U.S.C. § 332 (c)(3)(A); see also *Louisiana Public Service Comm’n v. FCC*, 476 U.S. 355 (1986).

⁸ See S.C. Code § 58-11-100(B).

Clearly, application of the bonding requirement to CMRS providers would constitute "entry" regulation of CMRS providers, contrary to federal and state law.

As such, OnStar respectfully requests that the Commission specifically exempt CMRS providers from the requirements of proposed Section 103-607 of the South Carolina Code of Regulations.

Respectfully submitted on this 31st day of March, 2008.

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